

REMARKS

Claims 1 and 3-14 currently appear in this application. The Office Action of February 23, 2004, has been carefully studied. These claims define novel and unobvious subject matter under Sections 102 and 103 of 35 U.S.C., and therefore should be allowed. Applicants respectfully request favorable reconsideration, entry of the present amendment, and formal allowance of the claims.

Claims 1, 3-6 and 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over CA 1213170A in view of Vitkovsky. This rejection is respectfully traversed.

On page 6, lines 6-12 of CA 1213170A, it is stated, "In accordance with another aspect of the present invention, there is provided an improved meat product wherein uncooked beef or other edible animal flesh is taken from a hot deboning operation upon slaughtering of the animal or taken from previously slaughtered and preserved cuts of meat and processed into a frozen particle having a maximum linear dimension of approximately .750 inches to 1.0 inches and a minimum linear dimension of approximately .125 to .375 inches." [emphasis added] It is quite clear from this sentence that the frozen particle is not formed by milling "a frozen ground fish meat mass." It is quite clear from this

sentence that a "frozen ground fish meat mass" is neither prepared nor used. The paragraph of page 6, lines 6-28 of CA 1213170A does not describe any process satisfying the conditions of claim 1.

There is nothing in CA 1213170A that discloses "milling a frozen ground fish meat mass to a uniform particle size." Page 16, lines 3-6 of CA 1213170A states, "the comminution of the frozen strands by a two stage or two step process as described also provides particles which are somewhat irregular in shape and seem to adhere to each other particularly well in forming shaped meat products from thawed particles. It is quite clear that the milled products of CA 1213179A do not have a uniform particle size. It is also clear that CA 1213170A uses such irregular shapes in order to promote efficient adhesion of the particles in forming shaped meat products. It is respectfully submitted that one skilled in the art reading CA 1213170A would have been motivated to mill a frozen ground meat to a uniform particle size, as is claimed herein.

The Examiner correctly recognizes that CA 1213170A does not specifically recite fish or milling at less than -15°C. Thus, CA 1213170A does not describe or suggest "milling a frozen ground fish meat mass to a uniform particle size at -15°C or below" as recited in claim 1.

The Examiner alleges that Vitkovsky teaches a method of milling frozen minced fish to a size of 5-12 mm by freezing it to a temperature of 0 to -196°C and then milling the frozen minced fish. However, there is nothing in Vitkovsky that discloses or suggests "milling a frozen ground fish meat mass to a uniform particle size" as recited in claim 1 of the present application. Vitkovsky describes the fracturing stage with reference to Figure 5, at column 7, lines 15-33. Vitkovsky at column 7, lines 24-29, states, "the container 41 is provided with a plurality of discharge apertures in the lower portions thereof, the discharge apertures 46 have a predetermined size and through which particles 47 of fractured frozen material smaller than the aperture size are discharged." Figure 5 clearly shows that particles 47 are not uniform. Additionally, referring to column 7, lines 44-49, Vitkovsky states, "the preferred method of the invention includes the step of sizing the free-flowing particles of frozen food product in sizing stage 50 so as to separate undersized particles from larger sized particles required as the final particulate food product." This sentence also clearly indicates that the fractured particles do not have a uniform particle size.

Moreover, it is respectfully submitted that specifically disclose that the fracturing stage is conducted

at a temperature of  $-15^{\circ}\text{C}$  or below. The temperature range of 0 to  $-196^{\circ}\text{C}$  is the freezing temperature, not the temperature at the fracturing stage.

As is described in the paragraph bridging pages 2 and 3 of the present specification, the purpose of the present invention is "to provide a method by which a frozen ground fish meat can be rapidly thawed while maintaining its ability to gel at the maximum level without causing any deterioration in the qualities thereof." In contrast thereto, the purpose of Vitkovsky is "to provide a method and apparatus for producing a frozen free-flowing product which can be used as a marketable final product in itself or can be used in food preparation processes having advantages over prior food preparation processes", column 1, lines 49-54. It is clear that Vitkovsky does not intend to thaw the frozen free-flowing food product. No one skilled in the art would have been motivated to use the invention of Vitkovsky, which provides a frozen free-flowing food product, to achieve rapid thawing, as claimed herein.

As discussed above, neither CA 1213170A nor Vitkovsky discloses or suggests "milling a frozen ground fish meat mass to a uniform particle size at  $-15^{\circ}\text{C}$  or below" as claimed in claim 1. Even if one skilled in the art happened to consider milling a frozen ground fish meat mass to a

uniform particle size at -15°C or below, he could not have predicted, reading CA 1213170A and Vitkovsky, that the resultant product achieves rapid thawing without deterioration.

Claims 7 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over CA 1213170A in view of Vitkovsky as applied above, and further in view of Katoh et al. This rejection is respectfully traversed.

Katoh et al. merely disclose a method for processing fish paste by mixing in seasoning and starch using a pin mixer. This disclosure adds nothing to CA 1213170A and Vitkovsky to suggest a method for thawing frozen ground fish meat mass by milling frozen ground fish meat mass to a uniform particle size in the absence of partial thawing at -15°C or below, and then thawing without shearing the ground fish meat mass by elevating the temperature.

Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Katoh et al. in view of CA 1213170A and Vitkovsky and JP 06133739A. This rejection is respectfully traversed.

JP 06133739A adds nothing to the disclosures of Katoh et al., CA 1213170A, and/or Vitkovsky in teaching one skilled in the art to thaw frozen ground fish according to the


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present invention. JP 06133739A only teaches producing molded fish paste products by heating with electricity. There is nothing in JA 06133739A that teaches or suggests milling a frozen ground fish meat mass in a uniform manner at -15°C or below, thawing the milled fish meat by elevating the temperature to give a ground fish meat, and mixing under stirring the ground fish meat together with additives using a pin mixer to form a molded product. JP 06133739A does not disclose or suggest how one obtains the fish paste to be treated, only that heating can be effected with electricity.

In view of the above, it is respectfully submitted that the claims are now in condition for allowance, and favorable action thereon is earnestly solicited.

Respectfully submitted,

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